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C O N F I D E N T I A L PORT MORESBY 000319

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FOR L/EAP J. HERGIN

E.O. 12958: DECL: 8/9/2016
TAGS: [PREL](#) [PGOV](#) [PP](#)
SUBJECT: SAREI VS. RIO TINTO

REF: 05 PORT MORESBY 120

CLASSIFIED BY: Robert Fitts, Ambassador, U.S. Embassy Port
Moresby, Department of State.
REASON: 1.4 (b)

1.(C) SUMMARY/COMMENT: The current PNG government would not object to continuation of the case vs. Rio Tinto in California courts, however it would likely be discomfited if the case were prolonged. A lengthy case could also serve to delay responsible decision making by the Bougainville government. A new PNG government (expected in June 2007) could well raise anew objections to the case. Thus, there would be little immediate adverse foreign policy impact to resumption of the case. However, there could well be different considerations down the road. END SUMMARY

2.(C) The current PNG government is on record as preferring that the Bougainville class action suit now in California courts be decided in the U.S. That statement was made in March of 2005 (reftel) in the context of upcoming elections in Bougainville. Those elections were held in May last year. The autonomous provincial government has been formed and has gotten down to the serious business of hitting the government and donors up for money to fund its operations. The new provincial government has uninterested in raising its own revenue within the province. If we enquired today for the position of the PNG government, we confidently expect that it would not oppose continuation of the case in US courts. This is after all a national election year for PNG. The prospect for funds from the case also helps contain, to some extent, demands for additional funding from Bougainville. If the Department wishes, we will request the views of the government, but a response might take some time.

3.(C) The Bougainville peace process, in the eyes of Bougainville leaders, has a long way to go. It will only end some ten or 15 years in the future with a referendum on independence which is provided for in the newly adopted constitution. Whether that referendum will in fact be held, will depend on the progress of national politics. Continuation of the case does encourage those who hold the millennialist hope/belief that the suit will produce billions, rendering the province rich. A long trial could thus serve to delay provincial leaders from making hard decisions, like raising revenue locally to fund development. In fact, the same PNG Minister who said (reftel) his government would not raise an objection to the case proceeding, pressed the Ambassador to ensure that the case was decided expeditiously, "so that the Bougainvillians can get down to business."

4.(C) The previous Government in PNG had objected strongly to the case being tried in U.S. courts, which was the basis for the original USG submission on the case. A national election in PNG will be held in May 2007 and it is completely conceivable that a new government would raise those objections anew, particularly

if evidence in the case was drawing criticism of PNG's conduct in the succession crisis.

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